IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.14518 of 2008**
DATE OF DECISION: November 27, 2008

V.K. SALGOTRA ...PETITIONER

VERSUS

FOOD CORPORATION OF INDIA & OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MR. JUSTICE RAJAN GUPTA.

PRESENT: MR. B.R. GUPTA, ADVOCATE AND
MR.KAMAL GUPTA, ADVOCATE FOR THE PETITIONER.
MR. K.K. GUPTA, ADVOCATE FOR THE RESPONDENTS.

ASHUTOSH MOHUNTA, J.(ORAL)

Counsel for the respondents pray for time to file reply. However, after going their the writ petition as well as the judgement (Annexure P-12), we consider it appropriate not to grant adjournment to the respondents, because the case is squarely covered.

The petitioner joined service in the Food Corporation of India as Technical Assistant Grade III in the year 1971. The respondent-Corporation invited options from its employees for adopting the wage revision on Industrial Dearness Allowance (IDA) or Central Dearness Allowance pattern. The petitioner opted the wage revision on IDA pattern and hence he was entitled to the benefits of wage revision from time to time on IDA pattern and thus, his pay was required to be refixed on this pattern w.e.f 1.1.1997, on the basis of circular dated 19.2.2002 (Annexure P-1). The petitioner claims that he is entitled to wage revision and all other benefits on the basis Annexure P-1.

Reply has been filed on behalf of the respondents where it has been averred that as the seniority case of the petitioner is pending in the Allahabad High Court (Lucknow Bench), therefore, till the same is decided, the petitioner cannot be granted the benefits of wage revision in terms of circular (Annexure

P-1).

Counsel for the petitioner has placed reliance on a judgment of this Court in CWP No.14162 of 2006 decided on 9.10.2007, *Bachittar Singh* vs. *Food Corporation of India and others* (Annexure P-12). Learned counsel submits that the present case is squarely covered by *Bachittar Singh's case* (supra).

Mr. K.K. Gupta, counsel for the respondents submits that if this petition is allowed in terms of the judgement (Annexure P-12), then it would be very difficult for the respondents to recover the amount in case there is some change in the seniority list.

This question was considered by the Division Bench in *Bachittar Singh's case* (supra) wherein their Lordships held as under:-

> *"One thing is certain that when the petitioner retired, he became entitled to payment of arrests of pay. The petitioner exercised his option for wage revision on the basis of Industrial Dearness Allowance (IDA) pattern and claimed recovery of arrears of pay. The petitioner cannot be denied payment of arrears on the speculative ground that his seniority may be lowered and consequently his pay also go down in the event of the case being decided against him by the Allahabad High Court."*

In view of the above, we are of the considered opinion that this case is squarely covered by the decision in *Bachittar Singh's case* (supra) and we allow the writ petition in the same terms.

(ASHUTOSH MOHUNTA)
JUDGE

November 27, 2008 **(RAJAN GUPTA)**
Gulati **JUDGE**